

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NICOLE KESTEN and SCOTT KESTEN,)
on behalf of themselves and others similarly)
situated,)
Plaintiffs,)
v.)
OCWEN LOAN SERVICING, LLC;)
FEDERAL HOME LOAN MORTGAGE)
CORP.; MORTGAGE ELECTRONIC)
REGISTRATION SYSTEMS, INC.; and)
DOES 1-10,)
Defendants.)

)

Case No. 1:11-CV-6981
Judge James F. Holderman
Magistrate Judge Jeffrey Cole

**DEFENDANT MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.'S
MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

COMES NOW defendant Mortgage Electronic Registration Systems, Inc ("MERS"), and respectfully moves the Court for an order dismissing plaintiffs Scott and Nicole Kesten's First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

MERS respectfully requests an opportunity to present its motion to the Court on December 1, 2011. As explained more fully in the accompanying memorandum of law, plaintiffs' First Amended Complaint fails to allege facts sufficient to establish causes of action under Regulation Z of the Truth In Lending Act, 12 C.F.R. § 226.20(c) and the Illinois Consumer Fraud Act, 815 ILL. COMP. STAT. 505/2, and also fails to allege facts sufficient to establish a cause of action for breach of contract under Illinois law.

Dated: November 28, 2011

Respectfully submitted,

s/Daniel K. Ryan

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**[Proposed] ORDER GRANTING MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.'S MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED
COMPLAINT**

AND NOW, the _____ day of _____, 2011, upon consideration
of Defendant Mortgage Electronic Registration Systems Inc.'s Motion to Dismiss, it is hereby
ORDERED, that the motion is granted, and
FURTHER ORDERED, that the claims against Mortgage Electronic Registration
Systems, Inc. set forth in Plaintiffs' First Amended Complaint dated November 17, 2011, are
hereby dismissed.

IT IS SO ORDERED.

BY THE COURT:

HON. JAMES F. HOLDERMAN
UNITED STATES DISTRICT JUDGE